

SERVICES AGREEMENT

THIS AGREEMENT FOR SERVICES is entered into as of January 31, 2020, by and among South Metro Fire Department, a Minnesota joint powers entity, the City of South St. Paul, a Minnesota municipal corporation, and the City of West St. Paul, a Minnesota municipal corporation.

RECITALS

WHEREAS, the City of West St. Paul and the City of South St. Paul formed a joint powers consolidated fire department pursuant to Minnesota Statute, Section 471.59, named the “South Metro Fire Department.”

WHEREAS, the South Metro Fire Department agrees to provide fire prevention, protection, and related services within the corporate limits of the Cities, upon the terms and subject to the conditions of this Agreement.

WHEREAS, each City agrees to provide certain services pursuant to this Agreement.

AGREEMENT

NOW, THEREFORE, in consideration of the promises and the covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which are acknowledged, the Parties, intending to be legally bound by the terms and conditions of this Agreement, agree as follows:

ARTICLE ONE **DEFINITIONS**

Section 1.01 **Definitions.** Unless the context clearly indicates a different meaning is intended, the following words and terms shall for the purposes of this Agreement have the meanings given them:

A. “Agreement” means this Agreement, as it may be amended, supplemented, or restated from time to time.

B. “Board” means the Board of Directors of South Metro Fire Department.

C. “Budget” means the budget adopted annually by the City Councils of the Cities in accordance with the procedure under Sections 7.3, 7.4, and 7.5 of the Joint Powers Agreement.

D. “Cities” means the City of South St. Paul and the City of West St. Paul; “City” means either one of the Cities.

E. “City Council” means the governing body of the City of South St. Paul or of the City of West St. Paul.

F. “Effective Date” means the Operational Date.

G. “Fire Chief” means the chief of the Fire Department.

H. “Fire Department” means the South Metro Fire Department.

I. “Joint Powers Agreement” means the Joint Powers Agreement dated October 25, 2005, between the Cities.

J. “Operational Date” means the date the employees, capital equipment, personal property and accounts receivable from the West St. Paul Fire Department and the South St. Paul Fire Department are transferred to the South Metro Fire Department and it becomes fully functional and operational.

K. “Parties” and “Party” means all of the entities named in the preamble of this Agreement, or any one of them.

L. “Service Center” means the South St. Paul Municipal Service Center that provides Vehicle Maintenance Services as outlined in Article Five.

M. “Station 1” means the portion of the building that the Fire Department leases from West St. Paul.

N. “Station 2” means the portion of the building that the Fire Department leases from South St. Paul.

O. “Uncontrollable Circumstances” means a delay resulting from a cause over which the Party required to make performance does not have control and that cannot or could not have been avoided by the exercise of reasonable care, including acts of God, accidents, war, civil unrest, embargoes, strikes, litigation, and delays of other Parties in the performance of its obligations under or incidental to this Agreement.

ARTICLE TWO **FIRE SERVICES**

Section 2.01 **Engagement for Fire Services.** The Cities hereby engage the Fire Department to furnish Fire Services as of its Operational Date, within the present and future corporate limits of the Cities, and the Fire Department agrees to provide the Fire Services upon the terms and subject to the conditions of this Agreement, and subject to the occurrence of Uncontrollable Circumstances. In the event of Uncontrollable

Circumstances, the Fire Chief shall have the discretion to allocate resources as deemed in the best interest of the Parties.

Section 2.02 **Definition of Fire Services.** “Fire Services” means fire prevention services, fire protection services, and related services, including structural fire fighting, fire suppression, rescue, hazardous materials operational level response, fire code inspection and enforcement, fire code, confined space operational level response, preconstruction building plan review, fire investigation, vehicle extrication, basic life support, emergency medical services, public education about fire prevention and safety, and fire cause and origin determination.

Section 2.03 **Leased Space.** Each City shall provide and maintain adequate facilities within its jurisdiction in which the Fire Department Station 1 and Station 2 shall be located, pursuant to lease agreements entered into by each City with the Fire Department.

ARTICLE THREE **BUDGET MATTERS**

Section 3.01 **Budget Process.** The Fire Department shall provide each City Council with its proposed gross Budget by July 15 each year. Each City shall equally share the cost of the annual Budget, which shall be due and payable in quarterly installments on January 1, April 1, July 1 and a final payment reconciling the balance due by October 31.

Section 3.02 **Advances in the Budget.** The Fire Department may request an advance from each City for a payment not yet due, but at no point shall the total annual payments made to the Fire Department by each City exceed its portion of the amount of the Budget, unless approved by both City Councils. Each City agrees to pay such advance within 30 days of the request.

Section 3.03 **Judgment and Liabilities.** In the event that the Fire Department is levied a judgment or liability or incurs an unanticipated and reasonably necessary expense that is not covered by insurance or another funding source, each City shall equally share the costs of such judgment, liability or necessary expense and shall pay the Fire Department within 30 days of the request by the Fire Department.

Section 3.04 **Quarterly Reporting to Councils.** The Fire Chief shall present written budget reports to the City Councils on a quarterly basis, or more often, if so requested by the Councils.

Section 3.05 **Audit.** The Board shall cause an annual audit of the financial affairs of the Fire Department to be performed by an independent certified accountant in accordance with generally accepted auditing principles. A copy of the audit shall be provided to each City Council by June 30 of each year, unless an extension is approved by both city Councils.

Section 3.06 **Billing Residents.** The Fire Department may charge property owners, residents or non-residents who use the Fire Services by directly invoicing them for Fire Services provided, including, but not limited to ambulance fees, fire permits, special equipment costs, false alarms, hazardous material response and inspections.

ARTICLE FOUR **FINANCIAL SERVICES**

Section 4.01 **Contributed Financial Services.** West St. Paul shall provide the Fire Department with Financial Services on the attached Exhibit A.

ARTICLE FIVE **VEHICLE MAINTENANCE SERVICES**

Section 5.01 **Contributed Vehicle Maintenance Services.** Fire Department shall engage South St. Paul to provide Vehicle Maintenance Services for all vehicles owned and operated by the Fire Department to keep them in good, operating condition. The Vehicle Maintenance Services shall be performed pursuant to the schedule provided on Exhibit B. The Fire Department may elect to undertake simple repairs and parts replacements when South St. Paul maintenance services are not available or when the Department can more practicably perform the work. Upon submittal of an appropriate parts billing invoice, South St. Paul shall duly reimburse the Department for that part's cost.

Section 5.02 **Definition of Vehicle Maintenance Services.** "Vehicle Maintenance Services" means scheduled, preventative, and/or routine vehicle maintenance such as oil changes, tire changes, brake servicing, tune-ups, replacement of filters, and coolant flushing. It also includes routine and ordinary repair and replacement of damaged, failing or worn vehicle components, including batteries and headlights. Vehicle Maintenance Services does not include the purchase of tires for engine and ladder trucks, bodywork or the repair or replacement of ancillary equipment related to the fire fighting operations.

Section 5.03 **Location of Services.** Most truck chassis repairs shall be performed at the South St. Paul Municipal Service Center, with the exception of pump testing, spring repair and tire repair. The Service Center will stock items needed for routine and ordinary maintenance. In unique cases, the work may be performed at Station 1, Station 2 or roadside.

ARTICLE SIX **INFORMATION TECHNOLOGY MATTERS**

Section 6.01 **Contributed Information Technology Services in West St. Paul.** The Fire Department shall engage West St. Paul to provide Information Technology Services to the Fire Department for the members of the Fire Department in Station 1 at no cost to the Fire Department.

Section 6.02 **Contributed Information Technology Services in South St. Paul.** The Fire Department shall engage South St. Paul to provide Information Technology Services to the Fire Department for the members of the Fire Department in Station 2 at no cost to the Fire Department.

Section 6.03 **Definition of Information Technology Services.** “Information Technology Services” means first-response trouble-shooting of computer and Internet systems, basic systems maintenance and user support.

ARTICLE SEVEN **INDEMNIFICATION**

Section 8.01 **Mutual Indemnification.** The Parties shall mutually indemnify and hold each other, and each of their respective elected official, officers, and employees, harmless from and against any and all liability and expense of any kind, including legal costs and reasonable attorneys’ fees, arising from the negligent acts or omissions of the other Parties, their elected officials, officers, and employees with respect to their performance of this Agreement.

Section 8.02 **Liability Limitation.** The indemnity under Section 8.01 above does not constitute a waiver by any of the Parties of limitations of liability provided by applicable Minnesota law, including Minnesota Statutes, Chapter 466.

ARTICLE EIGHT **INSURANCE**

Section 9.01 **Insurance.** The Parties and their personnel shall be covered by a policy or policies of general liability insurance in amounts of coverage not less than the limitations of liability under Minnesota Statute, Section 466.04, as it may be amended from time to time, or a successor statute.

ARTICLE NINE **TERM**

Section 10.01 **Term.** This Agreement shall be effective on January 1, 2020, and shall continue until December 31, 2021, unless terminated (a) by agreement of the Parties; or (b) upon dissolution of the Fire Department under Article Nine of the Joint Powers Agreement.

ARTICLE TEN
GENERAL PROVISIONS

Section 11.01 **Notices**. Each notice, approval, consent, communication, and delivery required or permitted under this Agreement shall be delivered in person, by facsimile transmission, or first class mail to facsimile numbers or addresses provided below and shall be deemed received (a) if delivered in person, on the date of personal delivery; (b) if transmitted by facsimile, on the date of telephonic confirmation of receipt; or (c) if sent by first class mail, on the third business day after mailing.

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| If to the City of South St. Paul: | City of South St. Paul Municipal Building 125 Third Avenue North South St. Paul, MN 55075 Attn: City Administrator Fax: (651) 554-3201 |
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| If to the City of West St. Paul: | City of West St. Paul City Hall 1616 Humboldt Avenue West St. Paul, MN 55118 Attn: City Manager Fax: (651) 552-4190 |
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| If to Fire Department, by certified mail: | South Metro Fire Department 1650 Humboldt Avenue West St. Paul, MN 55118 Attn: Fire Chief Fax: (651) 552-4195 |
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Any Party, by written notice to the other Parties, may change its address or addressee.

Section 11.02 **Counterparts**. This Agreement may be signed in more than one counterpart, each of which shall be deemed to be an original, but all of which taken together shall be deemed a single instrument.

Section 11.03 **Effect of Termination**. This Agreement shall continue in effect upon and after its termination, to the extent necessary for the enforcement of any of its provisions that apply subsequent to any such termination.

Section 11.04 **Non-assignability**. A Party shall not assign any interest in this Agreement nor shall transfer any interest in the same, without the prior written consent of the other Parties.

Section 11.05 **Alteration**. Any alteration, amendment, variation, modification, or waiver of the provision(s) of this Agreement shall not be valid until it has been reduced to writing and signed by the Parties.

Section 11.06 **Waiver**. The waiver of any of the rights or remedies under this Agreement on any one occasion by any Party shall not constitute a waiver of any rights or remedies with respect to any subsequent breach or default of the same terms of this Agreement. The rights and remedies provided or referred to under the terms of this Agreement are cumulative and not mutually exclusive.

Section 11.07 **Severability**. If any part, term, or provision of this Agreement is held by a court of competent jurisdiction to be unenforceable, the validity of the remaining provisions shall not be affected, and the rights and obligations of the Parties shall be construed and enforced as if this Agreement did not contain the particular part, term, or provision held to be unenforceable.

Section 11.08 **Governing Law**. This Agreement shall be governed by, and construed in accordance with the laws of the State of Minnesota.

Section 11.09 **Headings**. The headings to the sections of this Agreement are only for convenience of reference and are not intended, nor shall they be construed, to modify, limit, or expand the intent of the Parties as expressed in this Agreement.

Section 11.10 **Further Actions**. The Parties agree to execute such further documents and take such further actions as may reasonably be required to carry out the provisions and intentions of this Agreement.

Section 11.11 **Parties in Interest**. This Agreement shall be binding upon and inure solely to the benefit of the Parties, and nothing in this Agreement, express or implied, is intended to confer upon any other person or entity any rights or remedies of any nature under or by reason of this Agreement.

Section 11.12 **Effective Date**. This Agreement shall be effective as of the date first written above.

Section 11.13 **Review of Services**. Services contributed by each City shall be reviewed biennially by the Fire Chief as to whether the monetary value of the contributed services is roughly equivalent. Unresolved differences of opinion from the Parties about the rough equivalence of contributed services shall be forwarded to the South Metro Fire Board for consideration and direction.

The Parties have executed this Agreement by their respective duly authorized representatives in the date set forth opposite their names.

Dated: January 31, 2020.

SOUTH METRO FIRE DEPARTMENT

By: _____

Name: David J. Napier

Title: President

Dated: _____, 2020.

CITY OF SOUTH ST. PAUL

By: _____

Name: James P. Francis

Title: Mayor

and

By: _____

Name: Christy Wilcox

Title: City Clerk

Dated: _____, 2020.

CITY OF WEST ST. PAUL

By: _____

Name: David J. Napier

Title: Mayor

and

By: _____

Name: Ryan Schroeder

Title: City Manager

EXHIBIT A
FINANCIAL SERVICES

- Prepare and submit all W-9s and 1099s.
- Enter receipts into New World accounting system
- Prepare various financial related reports as needed
- Cash-flow analysis and recommendations
- Reconcile bank statements on a monthly basis
- Prepare and track federal and state gas tax refunds
- Prepare and track quarterly MN Care tax payments
- Reconcile petty cash and operating cash funds as needed
- Coordinate annual audit and prepare audit workpapers

EXHIBIT B
VEHICLE MAINTENANCE SERVICES SCHEDULE

- Front line trucks will be serviced three (3) (150 hrs) times per year.
- Front line ambulances will be serviced four (4) (150 hrs) times per year.
- Second line trucks will be serviced two (2) times per year.
- Administrative vehicles will be serviced every 3,000 miles.
- Small engine components mounted on trucks will be incorporated into the service interval times.
- Trailers, boats and ATV will be serviced one (1) time per year and inspected periodically for safety defects.
- Small engine equipment stored in the vehicles or Department facilities will be inspected periodically and serviced accordingly or as needed.
- One (1) time per year a Department of Transportation inspection will be included in one of the regular scheduled services for the above vehicles. No certificate is required; however, all forms related to such inspection shall be completed by the Service Center and submitted to the Fire Department.
- All vehicles will have a service slip outlining repair or Preventative Maintenance initiated by the Fire Department. Forms will be completed by the Service Center and returned with the vehicle.
- The Fire Department and Service Center will designate members for a Quality Assurance Process (QA). The QA will meet a minimum of once per quarter.
- All phone calls to the Service Center will be returned within 4 hours.
- The Fire Department will forward to the Service Center staff all NIOSH safety directives. The Service Center personnel will review the documentation and reports.